

Germany: sacked Opel worker fights victimisation

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Last October, workers at the Opel plant in Bochum, Germany, walked out over company plans to cut thousands of jobs. After the strike ended, Adam Opel AG, a subsidiary of General Motors, sacked two employees on the spot—Richard Kaczorowski and Turhan Ersin, the latter a member of the works council. The Industrial Tribunal in Bochum is currently considering separate appeals filed by the two workers against their sackings.

Thousands of workers participated in the strike, which brought the entire Opel plant in Bochum to a standstill. The protest against the announcement of factory closures and mass layoffs found broad support among workers in other Opel plants and in the general population. It was only by exerting massive pressure on the workers and using underhanded tactics that the trade union and works committee leaderships managed to end the strike, without any of the issues being resolved.

To set an example and to intimidate the entire workforce, two workers were subsequently singled out and arbitrarily dismissed. As Turhan Ersin was a member of the works committee, and his sacking contravened the regulations covering the dismissal of works committee members, the company had to proceed with it in the Industrial Tribunal, a process that began a few weeks ago. (See “Germany: tribunal hears case of victimised Opel worker”.)

In contrast, Richard Kaczorowski had no such protection against his sacking. His dismissal was effective immediately. After 24 years of employment at Opel—18 of them spent on the assembly line—he suddenly found himself without a job. The German Employment Agency then denied him unemployment benefits for the first three months due to his supposed “self-inflicted dismissal.” In order to establish the illegitimacy of his sacking, Kaczorowski had to initiate his own legal action against the transnational corporation.

On May 10, the Industrial Tribunal in Bochum began to hear his case, with magistrate van der Leeden presiding. Scores of fellow workers came to follow the proceedings and support Kaczorowski.

Opel was represented by Markus Kappenhagen from Baker & McKenzie LLP, one of the biggest legal firms in the world, as well as by Elmar Eising, from the personnel committee in Bochum. At the hearing, Opel put forward the same arguments it had made in its dismissal notice to Kaczorowski. The company argued that Kaczorowski used coercion (through threat of violence) and intimidation in order to force other Opel workers to participate in the strike.

The questioning of Kaczorowski and the five witnesses brought from Opel lasted nearly four hours. The hearing began with magistrate van der Leeden asking Kaczorowski about the events of that day. Kaczorowski made it clear that he had used no coercion to persuade

other workers to strike.

Nevertheless, at the conclusion of Kaczorowski’s testimony the judge suggested he accept a compromise with Opel. Van der Leeden said that Kaczorowski would be better off to take an offer of settlement, even when only “symbolic compensation” was proffered.

Opel’s attorney Kappenhagen said that the case looked good for Opel and bad for Kaczorowski, and stated, “We are talking about coercion here, therefore a symbolic compensation would be problematic.” Eising from the personnel committee also indicated that he would agree to a settlement only without compensation and said that the hearing was of great significance for Opel.

Van der Leeden, however, still urged the two sides to reach a settlement and, after a short break in the proceedings, put forward a proposal with two alternatives, both of which involved converting the dismissal without notice to one with the prescribed notice period. Accordingly, a dismissal with notice would be made effective from October 31, 2004, and Kaczorowski would—due to his 25-year employment tenure at Opel—receive a pitiful €20,000 retrenchment sum.

Richard Kaczorowski, who cannot afford his own legal representation and had to rely on the legal secretary of the German national trade union organisation’s DGB Legal Aid to represent him, rejected both settlement proposals. He declared, to applause and encouragement from the audience, that the company’s allegations were completely baseless and his dismissal illegitimate. “I want to go back to my job with the company!” he told the tribunal.

Magistrate van der Leeden then proceeded to call five witnesses to testify on behalf of Opel for the following Saturday. In its letter of dismissal, Opel stated that, according to these witnesses, Kaczorowski had “frightened” co-workers using threats of violence and had forced the production planner “W” and the plant manager “R” (neither name has been made public) to stop work.

However, at the next hearing on May 14, only the manager W stood by his testimony and maintained that Kaczorowski had loudly threatened other workers declaring that he would “tear up the equipment!” and “bring in the mob, then there’ll be trouble!”

W’s testimony about these events, however, not only contradicted Kaczorowski’s account, but also the testimony of Opel’s four other witnesses, all of whom work on the assembly line. All four testified that they did not feel scared or threatened. An exchange of words between Kaczorowski and one of the witnesses had indeed been loud, but there was a rational reason given, namely, that an assembly machine was located between the two. W’s claim that Kaczorowski’s had referred to fellow striking workers as a “mob” is also patently absurd.

None of the four other witnesses felt offended by Kaczorowski. As in any strike, there were voices raised and shouting. Some of the witnesses pointed to the general strike situation at the plant as the cause: work had also stopped in the repair and maintenance sections as well, where work is usually conducted on Saturdays. In any event, all four disputed the company's contention that Kaczorowski's behaviour was to blame for the work stoppage.

Throughout the testimony of the four factory workers, magistrate van der Leeden continually interrupted them with various comments and interjections, because it was not in accordance with the "proof" and "witness statements" that were collected by Opel in the course of the company's own "investigations." One of the four witnesses asked, "What counts here: the statements produced by Opel or those given now before the tribunal?" The magistrate answered, "The testimony given here in the tribunal!"

Even though the testimony presented at the tribunal in no way substantiated the allegations of coercion and threats, the tribunal was not prepared to hand down an immediate judgement and declare the dismissal void. In the end, magistrate van der Leeden only said that the witnesses for Kaczorowski would no longer be required. He suggested a break in the hearing for approximately four weeks so that all participants in the case could consider the testimony to date. He said he personally considered the case would likely end in a settlement.

The results of the first day of the hearing can only mean that the pressure on Richard Kaczorowski will be intensified from all sides—Opel, the union and the works committee. Opel management is still determined to obtain a confirmation of the dismissal. It would view a settlement, even with a compensation payment, as a success, because it would mean that the dismissal would remain in effect and could be used as an example to intimidate other workers.

As for the union, of which Kaczorowski has been a dues-paying member for 24 years, and the works committee, which represented Kaczorowski at the factory, their attitude to the case can be determined by the following facts:

First, during the strike, as thousands of workers laid down their tools and walked off the job, the works committee went behind their backs and refused to cancel the agreement made previously for Saturday overtime work. This action effectively sanctioned strikebreaking and created the very conditions for the exchange of words on Saturday, October 16, which the company used as a pretext for the punitive measures against Kaczorowski.

Second, on October 20, the works committee together with IG Metall, Germany's largest trade union, which covers the Opel factories, used all kinds of threats and tricks at the mass meeting of the Opel workers to ensure an end to the strike. In addition, they did not so much as approach Opel to reach an agreement—a normal practice in previous industrial disputes at the Bochum plant—barring sackings and other punitive measures against strikers. This refusal to do so paved the way for the instant dismissals of Turhan Ersin and Richard Kaczorowski.

Third, after the strike ended, the works committee refused to support the formal appeals of the sacked workers, and left them to fend for themselves. In addition, the works committee refused to hand out one cent of the €23,000 raised in donations from the local population to aid workers in financial need.

The Opel workforce, in contrast, showed enormous solidarity with the sacked workers. More than 3,000 signatures were gathered for a petition against the dismissals. Only then did the works committee,

citing the sackings, refuse overtime work on Saturdays—once. It left the matter at that, even though it and the union could have easily refused further requests for overtime and organised further "informational pickets" (as the strike was referred to at the time) to protest the dismissals.

Independent solidarity committees were later formed in Bochum and Recklinghausen (another Opel plant). If it were not for the donations they collected from the workforce and others, Richard Kaczorowski would not have been able to pay his rent during the first three months after his termination. Every subsequent week of inaction on the part of the union and works committee sharpened the personal, economic and moral pressure on Kaczorowski.

The WSWS Editorial Board therefore calls on all workers at all General Motors factories, and all readers, to defend Richard Kaczorowski and Turhan Ersin against their sackings. It is highly important that these attacks are defeated in order to prepare for the coming struggles to defend jobs and wages of all workers.

The WSWS is prepared to publish protest letters, letters of solidarity and reports about the situation at other plants and to establish contact with workers in GM operations in Poland, Sweden, Belgium, the UK and the US.

Write letters of protest and demand the immediate rescinding of the dismissals and the reinstatement of Richard Kaczorowski and Turhan Ersin to the following addresses:

Adam Opel AG
Geschäftsleitung Bochum
Opelring 1
44803 Bochum
Germany

and
Adam Opel AG
Hans H. Demant
Chairman of the Board
Friedrich-Lutzmann-Ring
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and
Adam Opel AG
Rainer Eienkel
Works Committee Chairman, Bochum
Opelring 1
44803 Bochum
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